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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197089
Party	Defendant A. Stein Meat Products, Inc.
Correspondence Address	ROBERT T MALDONADO COOPER & DUNHAM LLP 30 ROCKEFELLER PLAZA NEW YORK, NY 10112-0015 UNITED STATES Rmaldonado@cooperdunham.com, ebernstein@cooperdunham.com, tdocketing@cooperdunham.com
Submission	Response to Board Order/Inquiry
Filer's Name	Robert T. Maldonado
Filer's e-mail	rmaldonado@cooperdunham.com, ebernstein@cooperdunham.com, eeisenberg@cooperdunham.com
Signature	/Robert T. Maldonado/
Date	02/10/2016
Attachments	NONCONFIDENTIAL_Peaceful_Possession_of_Collateral_IMAGE.pdf(953498 bytes )

**A. STEIN MEAT PRODUCTS, INC.**

5600 1<sup>st</sup> Avenue, #22  
Brooklyn, NY 11220

October 8, 2014

FCC, LLC, d/b/a First Capital  
3350 Riverwood Parkway, Suite 1750  
Atlanta, Georgia 30339

Re: Peaceful Possession of Collateral

Ladies and Gentlemen:

Reference is made to (a) the Loan and Security Agreement, dated November 19, 2012 (as amended, modified, supplemented, extended, renewed, restated or replaced, the "***Loan Agreement***"), by and among FCC, LLC, d/b/a First Capital ("***Lender***") and A. Stein Meat Products, Inc. (the "***Debtor***"), and (b) all other agreements, documents and instruments referred to therein or at any time executed or delivered in connection therewith or related thereto among Lender, Debtor, [REDACTED] [REDACTED] ("***Guarantors***") (all of the foregoing, as amended, modified, supplemented, extended, renewed, restated or replaced, together with the Loan Agreement, being collectively referred to herein as the "***Loan Documents***"). Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Loan Agreement.

1. Acknowledgments. Debtor and each Guarantor hereby acknowledge, confirm and agree that:

(a) Obligations. As of the close of business on October 6, 2014, Debtor is indebted to Lender for the Obligations pursuant to the Loan Documents in the aggregate principal amount of not less than [REDACTED] plus interest accrued and accruing thereon, and all commissions, costs, expenses, attorneys' fees and other charges or contractual obligations now or hereafter payable by Debtor to Lender under the Loan Documents, including, without limitation, all amounts which may be paid by Lender in connection with the sale or other disposition of the Surrendered Collateral (as defined below) or any other Collateral.

(b) Security Interests. As collateral security for the prompt payment and performance of all Obligations, Lender has, and shall continue to have, valid, enforceable and perfected first priority liens upon and security interests in, among other Collateral, the assets and properties of Debtor listed on Schedule 1.1(b) (the "***Surrendered Collateral***").

(c) Default.

(i) Debtor and each Guarantor hereby acknowledges, confirms and agrees that various Defaults have occurred and are continuing under the Loan Documents.



(ii) Debtor and each Guarantor hereby acknowledges, confirms and agrees that each of the Specified Defaults constitutes a Default under the Loan Documents and entitles Lender to immediately exercise its rights and remedies under the Loan Documents and applicable law. Lender has not waived, presently does not intend to waive and does not hereby waive any such Defaults and nothing contained herein or the transactions contemplated hereby shall be deemed to constitute any such waiver.

2. Peaceful Possession and Surrender of Collateral.

(a) Debtor hereby surrenders, delivers, turnovers and grants to Lender, and each Guarantor hereby acknowledges and consents to the surrender, delivery, turnover and grant to Lender of, peaceful possession of the Surrendered Collateral, wherever located, and the products and proceeds thereof. Such surrender and delivery of the Surrendered Collateral to Lender is in recognition of the rights of Lender as a secured party under the UCC and other applicable law.

(b) Debtor and each Guarantor hereby waives all of its rights to notification or otherwise (i) under Section 9-611 of the UCC as to the sale or other disposition by Lender of the Surrendered Collateral, (ii) under Section 9-620 of the UCC regarding acceptance of the Surrendered Collateral as discharge of the Obligations and (iii) under Section 9-623 of the UCC regarding any right it may have to redeem the Surrendered Collateral.

(c) Debtor and each Guarantor knowingly waives any rights it may have to notice and a hearing before any court of competent jurisdiction and consents to Lender's possession, sale, transfer, license or other disposition of or realization on the Surrendered Collateral. Without in any way limiting or prejudicing the rights or remedies of Lender under the Loan Documents and applicable law, each Debtor and Guarantor agrees that Lender may (i) at any time, exercise its right to dispose of any and all such Surrendered Collateral as provided for under the Loan Documents and applicable law and (ii) take such action as Lender may deem appropriate with respect to the Surrendered Collateral.

(d) All proceeds of the Surrendered Collateral received and retained by Lender shall be applied by Lender to the Obligations in such order and manner as Lender shall determine. Debtor and the Guarantors (to the extent applicable in their respective guaranties) shall be and remain liable for any deficiency until all Obligations are fully and indefeasibly paid and satisfied.

(e) Nothing herein shall, or shall be deemed to, (i) limit any rights or interests of Lender with respect to any assets or properties not expressly surrendered, delivered, turned over or granted to Lender hereunder or (ii) constitute satisfaction of the Obligations of Debtor or Guarantors to Lender.

(f) Debtor and each Guarantor hereby agrees to execute and deliver any and all other agreements, documents and instruments deemed necessary or desirable by Lender and its counsel to effect a sale of the Surrendered Collateral pursuant to § 9-610 of the Code.

3. Release. Debtor and each Guarantor hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Lender and its affiliates, subsidiaries,



divisions, directors, officers, attorneys, employees, agents and other representatives (Lender and all such other persons or entities being collectively, the “**Releasees**”), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, account, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of setoff, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity (each, a “**Claim**”), which Debtor or the Guarantors or any of their respective successors, assigns or other legal representatives may now or hereafter own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any nature, cause or thing whatsoever which arose at any time on or prior to the day and date of this agreement, including, without limitation, for or on account of, or in relation to, or in any way in connection with any of the Loan Documents or transactions with respect thereto.

4. Covenant Not to Sue. Debtor and each Guarantor, on behalf of itself and its respective successors, assigns, heirs, executors, administrators and other legal representatives, hereby jointly and severally, absolutely, unconditionally and irrevocably, covenants and agrees with each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by Debtor and the Guarantors pursuant to Section 3 above. If Debtor, any Guarantor or any of their respective successors, assigns, heirs, executors, administrators or other legal representatives violates the foregoing covenant, Debtor and such Guarantor agree to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by any Releasee as a result of such violation.

5. Reservation of Rights. Nothing contained herein is intended to or shall waive any claims, rights, remedies, powers or privileges available to Lender, Debtor or any Guarantor under any Loan Document, applicable law or otherwise, all of which claims, rights, remedies, powers and privileges are hereby expressly reserved.

6. Acknowledgments. This letter is the result of a full and complete negotiation at arms’ length between the Debtor and the Guarantors, on the one hand, and Lender, on the other hand. Debtor and each Guarantor represents and warrants to Lender that it has read and fully understands the terms and effect of this letter.

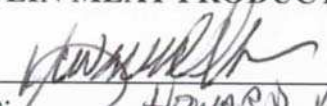
7. Governing Law. The rights and obligations hereunder of each of the parties hereto shall be governed by and interpreted and determined in accordance with the internal laws of the State of Georgia without regard to principals of conflicts of laws.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

8. Counterparts. This letter may be executed in one or more counterparts (including by means of facsimile or PDF signature pages), all of which taken together shall constitute one and the same instrument.

Very truly yours,

**A. STEIN MEAT PRODUCTS, INC.**

By:   
Name: Howard Mora  
Title: President

REDACTED